

Details:

(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2007-08

(session year)

Senate

(Assembly, Senate or Joint)

Committee on ... Labor, Elections and Urban Affairs (SC-LEUA)

COMMITTEE NOTICES ...

- Committee Reports ... CR
- Executive Sessions ... ES
- Public Hearings ... PH

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... Appt (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... CRule (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)

(ab = Assembly Bill)

(ar = Assembly Resolution)

(ajr = Assembly Joint Resolution)

(**sb** = Senate Bill)

(**sr** = Senate Resolution)

(**sjr** = Senate Joint Resolution)

Miscellaneous ... Misc

Senate

Record of Committee Proceedings

Committee on Labor, Elections and Urban Affairs

Assembly Bill 258

Relating to: permitting an employer to offer financial incentives to encourage or discourage employee use of a lawful product.

By Representatives Nygren, Moulton, Albers, Ballweg, Davis, Hines, F. Lasee, LeMahieu, Montgomery, Musser, A. Ott, Petersen, Strachota, Tauchen and Vos; cosponsored by Senators Cowles, Roessler and Schultz.

November 02, 2007 Referred to Committee on Labor, Elections and Urban Affairs.

March 13, 2008 Failed to concur pursuant to Senate Joint Resolution 1.

Adam Plotkin Committee Clerk







November 7, 2007

NOV 08 2007

Senator Spencer Coggs Chair, Senate Committee on Labor, Elections and Urban Affairs 123 South, State Capitol Madison, WI 53702

Dear Senator Coggs:

As you consider bills for the next public hearing of the Senate Committee on Labor, Elections and Urban Affairs, I would like to request that **Assembly Bill 258**, relating to permitting an employer to offer financial incentives to encourage or discourage employee use of a lawful product, be added to the list.

Under current law, employers are discouraged from offering Wellness Financial Incentives to their employees, as this could be interpreted as employment discrimination based on use or nonuse of a lawful product off the employer's premises during nonworking hours. Assembly Bill 258 will allow an employer to offer financial incentives related to employee health care benefits that are intended to encourage or discourage use of a lawful product; giving employers the opportunity to offer financial incentives to their employees for wellness practices without having this fall under employment discrimination.

It is important to note that this legislation does <u>not</u> affect current law as it relates to an employer not hiring and/or terminating employment based on an individual's use of legal products, such as tobacco, as this would still fall under employment discrimination as found under current law.

I hope I can count on your support in scheduling AB 258 for a public hearing. The Assembly Committee on Insurance passed AB 258 out of committee on May 24th on a vote of 11-0-1 [Representative Ballweg was absent.]; and it passed the Assembly on October 36th on a voice vote.

Thank you for your consideration to this request. If you have any additional questions, please feel free to contact me.

Sincerely,

JOHN NYGREN State Representative 89th Assembly District

cc: Senator Robert Cowles Senator Dave Hansen





From:

DAVID M AHRENS [dmahrens@facstaff.wisc.edu]

Sent:

Thursday, December 13, 2007 1:56 PM

To:

Plotkin, Adam

Subject:

AB 258

Attachments: WPHA Assembly Bill 258.doc

Adam

Looking forward to discussing this legislation with you on Wednesday, December 19 at 9 AM.

David

David Ahrens University of Wisconsin Population Health Institute Room 389 610 N. Walnut St. Madison, WI 53726 608-265-6386 608-262-2425 (fax) dmahrens@facstaff.wisc.edu

> - Inte awareness - AFL-Clo memo day of vote - originally neutral - everyone opposed it late - insurers bill - cherry pick min. # of healthy people for max \$
> - unload unhealthy people - OH last starte day

The Wisconsin Public Health Association has a long history of strongly supporting measures that reduce the health and financial costs posed by tobacco on our society. We are however, opposed to passage of **Assembly Bill 258.** This bill allows employers to charge different payments for health benefits if they use a "lawful product" outside of their place of employment. While the bill describes the use of "incentive" this language includes what are typically considered "disincentives" such as higher contributions for premiums. This lawful product may be tobacco or alcohol.

The WPHA is opposed to Assembly Bill for the following reasons:

- There is <u>no evidence</u> that charging smokers more money for health insurance causes people to quit smoking. Further, unless employers are willing to conduct medical tests of all employees they cannot determine who smokes.
- Including smoking cessation as part of a package of medical care offered under insurance is <u>proven</u> to increase quitting. This is particularly important if it is promoted by the employer and supported by such policy changes as the institution of a smoke-free workplace. These changes are not required in the bill.
- There are many high-risk behaviors that may contribute to the overall cost of a group health plan but which are not subject to attempts to re-coup costs. Motorcyclists who do not wear helmets are not excluded from coverage for brain injury, skiers are not barred from recovering orthopedic costs or heavy drinkers from a host of medical problems.
- The bill does not specify the extent of the extra payment. Because the scope and kind of disincentive is not defined, employers could require a surcharge of \$20/month or \$200/month. The extent of the surcharge may be simply punitive and not related to a figure that is either encouraging quitting or recouping "costs of smoking."
- Higher co-payments for insurance will cause some employees to decide not to take insurance and thus cause increase the number of people without insurance. Smokers tend to be poorer and in part due to smoking, have less discretionary income. From a range of real-life events as well as studies, we know that each increase in the cost of insurance results in people declined to take policies. Obviously, this presents a substantial incentive to an employer who may attempt to covertly "dis-insure" many of those who are more likely to become ill.
- The bill will have the effect of increasing the number of uninsureds which is contrary to the state government's effort of increasing the number of people with insurance.





From: Barry Mainwood [bjmainwood@earthlink.net]

Sent: Friday, December 21, 2007 8:31 PM

To: Sen.Coggs

Subject: Assembly Bill 258

Dear Sen Coggs,

I'm writing you to encourage you to vote for Assembly Bill 258. I'm an avid biker as well as bike commuter. From March to Nov I commute from New Berlin to the 3rd Ward in downtown Milwaukee.

It's a great stress reliever as well as an incredible way to stay in shape.

Please help promote bike commuting in Wisconsin and put us on the list of bike friendly states.

Thanks.

Barry Mainwood 13720 W. Linfield Dr. New Berlin, WI 53151 262-780-0563 414-791-3348 cell





From: mollyandchris@sbcglobal.net

Sent: Saturday, December 22, 2007 6:20 AM

To: Sen.Coggs

Subject: Assembly Bill 258

Senator Coggs,

Thank you for taking the time to read this email. I have read about the possiblity of this bill getting passed into law. I think this would be an excellent bill, not only for the reason I ride my bike to work everyday, but for the health of the whole state as well. There are alot of people I meet that say they would love to commute by bike, that way they don't have to let their cars warm up in the winter, scrape off windshields, and even worry about sitting in traffic all year long. I think by putting forth an incentive like this, alot of those people would take the leap and least start commuting part time if not full time by bike. It may work wonders by lowering the obesity rate here in this great state, just by getting people out exercising. I always call my commute "exercise in disguise." I love riding my bike year round, I only have an 8 mile round trip commute but sometimes in teh summer I get up earliert and ride around Lake Monona and get to work so it adds about 12 miles each way. Seeing people start to get healthy, and seeing less congestion on the city streets are just 2 of the great reasons to pass this bill.

Thank you again for taking the time to read this email.

Regards, Chris Follmer





From: Brian Kienert [bkienert@new.rr.com]

Sent: Sunday, December 23, 2007 9:42 PM

To: Sen.Roessler; Sen.Coggs

Cc: Ken Kubiak; Cathy Clark; frederickson@uwosh.edu; Hawley, Greg; Robert.Hawley@yahoo.com;

jimbuehner@hotmail.com; kledbett@oshkosh.gannett.com; Jeffrey Marks; Golden, Mike; 'Seubert, Sherry'; LISA.TESKE@carters.com; Michellene Urban; Schu-Ling Zhou; zornosa@yahoo.com; Rachael Williams; nick.corbin@wheelandsprocket.net; mgiffin@northnet.net; SSawitski@piercemfg.com; jtlain@yahoo.com; Lum,

Kay; sylvia@mightymacosh.com; Damm, Rick G.; Mick Siech

Subject: Action on Assembly Bill 258 - A Healthy Law for Healthy People - Please Support Them!

Dear Senator Carol Roessler and Senator Spencer Coggs;

I hope you are having a fine Holiday Season!

I write as a representative of the Oshkosh Cycling Club. As a member of the Oshkosh cycling community, I ask you; the honorable Senator Spencer Coggs - Chairman of the Senate Committee on Labor, Elections and Urban Affairs, to please schedule a hearing for, and a committee vote on, **Assembly Bill 258**, before the end of this session (ending March 08). **Assembly Bill 258** was authored by Rep. John Nygren, R-Marinette, along with 14 other representatives and three Senators.

On behalf of the Oshkosh Cycling Club and its mission, I also write to ask our fine representative; the honorable Senator Carol Roessler, to please support this measure with a "YES VOTE", as this bill supports and encourages a healthy lifestyle in a number of ways.

Assembly Bill 258 would make it legal for employers to "offer financial incentives related to employee health care benefits that are intended to encourage use of a lawful product.", i.e. it would allow employers (private and public) to reward it's employees financially for doing healthy things, like using their bikes to get to and from work. This is a Bill whose time has come.

Conversely, this bill would allow employers to require more contributions from people with unhealthy lifestyles, such as smokers, because smoking individuals cost the health care system much more than non-smokers. This bill would allow people with a healthy lifestyle to be rewarded while requiring those with unhealthy life habits to pay their fair share. Under current state law an employer who tries to reward employees for healthy behaviors (such as bicycle commuting and not smoking) could be sued for employment discrimination by workers who do not practice healthy lifestyles and/or choose unhealthy life habits instead (such as smoking and not exercising). This bill would bar such actions against people with healthy lifestyles and employers who wish to reward healthy lifestyles. Certainly it is the freedom of the individual to live an unhealthy lifestyle if they choose, but as it stands now we all pay for it. This bill would change that.

Assembly Bill 258 received an 11-0 Assembly Committee vote in the House and has already passed the House on a voice vote giving very clear indication of its widespread support. It's now in the Senate, awaiting a hearing.

Please Vote YES on Assembly Bill 258. And I'd love to hear from you Carol. Have a very Merry Christmas!

Sincerely,

Brian Kienert
President; Oshkosh Cycling Club
1647 Sanders Street
Oshkosh, WI 54902
bkienert@new.rr.com
920-231-9713





From: Steve.Arnold@Fitchburg.WI.US

Sent: Monday, December 24, 2007 12:45 AM

To: Sen.Coggs Cc: Steve Arnold

Subject: Support for a hearing and committee vote for AB528

Senator, please consider having an early hearing and committee vote on AB528. This bill would protect employers who incent their employees to engage in healthy activities to reduce their health care costs from lawsuits for "employment discrimination". This would permit incentives for such activities as bicycle and pedestrian commuting and smoking cessation.

As a bicycle commuter since last May (6.3 miles one way), I've lost 14 pounds. We need this law! Thank you for your consideration.

Regards,

Steve Arnold, Fitchburg Alder, District 4, Seat 7 2530 Targhee Street, Fitchburg, Wisconsin 53711-5491 Telephone +1 608 278 7700 · Facsimile +1 608 278 7701 Steve.Arnold@Fitchburg.WI.US · http://www.Arnold.US





From: Dan Knickmeier [dknickmeier@charter.net]

Sent: Tuesday, December 25, 2007 9:26 PM

To: Sen.Coggs; Sen.Miller; Rep.Parisi

Cc: Cookie

Subject: Action on Assembly Bill 258

Dear Senators and Representatives,

I am writing to express my interest in the current assembly bill 258 that is pending discussion. My wife and I are avid bicyclists, and have each commuted 1,500 miles to work in 2007 season. Not only are we interested in this bill from a personal standpoint, but I am interested from a business standpoint. I am currently participating in an environmental policy committee for our company that is recommending an environmental action plan. As part of that plan I strongly feel that our company can offer incentives (perhaps financial) to our employees to use bicycling, public transportation and carpooling. We are always looking for ways to enhance the health of our employees, and this bill would aid in that effort. As a side benefit, this legislation may also positively affect the environment by encouraging more people to bike to work.

Please address this subject in a very serious manner when the opportunity arises.

Dan & Tamara Knickmeier 4346 Jordan Drive McFarland, WI 53558 608-835-8333





From:

gary.lizotte@cummins.com

Sent:

Monday, December 31, 2007 10:40 AM

To:

Sen.Coggs

Subject: Action on Assembly Bill 258

Dear Senator Coggs:

I would like to add my support to Assembly Bill 258 and ask for your consideration during voting.

Thanks,

Gary D. Lizotte 856 Fair Street Mineral Point, WI 53565

Action on Assembly Bill 258

Bill Hauda - BFW Board Member

How would you like to be paid for commuting by bicycle to work?

A relatively obscure bill making its way through the Wisconsin Legislature would make that possible. You could get preferential health, life and disability insurance premium rates, and other financial incentives, from your employer for bicycle commuting. Authored by Rep. John Nygren, R-Marinette, 14 other representatives and three senators, Assembly Bill 258 would make it legal for employers to "offer financial incentives related to employee health care benefits that are intended to encourage use of a lawful product." That's legal lingo for allowing your employer (private and public) to reward you financially for doing healthy things like using your bike to get to and from work.

On the flip side, the bill would allow employers to penalize the couch potatoes by making them pay more. One area that might be targeted, as an example, is smoking. Since smoking couch potatoes cost the health care system lots more, that's only fair. AB528 got an 11-0 Assembly committee vote and passed the House on a voice vote, an indication of widespread support. It's now in the Senate, awaiting a hearing.

Under current state law an employer who tries to reward employees for healthy behavior like bicycle commuting could be sued for employment discrimination by workers whose main exercise is hoisting Krispy Kreams to their mouths. The bill would bar such actions.

Will the bill pass the Senate and be signed into law? Not unless bicyclists contact their senators and ask them to support the measure. Not unless they call the chairman of the Senate Committee on Labor, Elections and Urban Affairs, Sen. Spencer Coggs, D-Milwaukee, and ask him to schedule a hearing and a committee vote. Time's short. The current Legislature's floor sessions end in March.

Senator Coggs can be reached at 608-266-2500, or E-mail him at Sen.Coggs@legis.wisconsin.gov





From: Lisa Miller [lv2byk@yahoo.com]

Sent: Tuesday, January 01, 2008 12:01 PM

To: Sen.Coggs

Subject: Rewarding Healthy Lifestyles

Senator Coggs,

As a voter in Shorewood, WI, I ask you to consider taking action on Assembly Bill 258 by scheduling a hearing and committee vote soon. As the article from the Bicycle Federation of Wisconsin (below) explains this bill will allow employers to reward healthy, active lifestyles! Your support would be greatly appreciated.

Lisa A. Miller 414-964-5303

Action on Assembly Bill 258

Bill Hauda - BFW Board Member

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From: LG Friedrichs [lgfcaf@yahoo.com]

Sent: Wednesday, January 02, 2008 11:40 AM

To: Sen.Coggs Subject: AB 258

Dear Sen. Coggs:

I am writing you to request that you schedule hearings and a committee vote on Assembly Bill 258 to make it legal for employers to "offer financial incentives related to employee health care benefits that are intended to encourage use of a lawful product." I understand that this bill is now in the Senate, awaiting a hearing.

Wisconsin residents who choose to live an unhealthy lifestyle should not have their health care costs subsidized by other citizens who choose to live a healthy lifestyle. Let's allow incentives to encourage healthy decisions!

L.G. Friedrichs (262) 391-8098

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From: Jim [jimbob-country@usa.net]

Sent: Wednesday, January 02, 2008 6:17 PM

To: Sen.Erpenbach

Cc: Sen.Coggs; Bob King

Subject: AB 258

Sen. Erpenbach.

I want to urge you to have Sen. Coggs schedule a hearing on the above bill. This would allow those of us who try to stay fit and healthy to be rewarded for a positive life style activities and not be penalized by carrying those on our insurance premiums who practice non-healthy behaviors like smoking. Note this does not make anyone change or give up any non-healthy behavior. It simply allows employers or insurance companies to apply the extra burden their behavior imposes onto those individuals, instead of everyone.

As ever, Jim Roberts :{) 15019 W Ahara RD #12 Evansville WI 53536 (608) 214-2949



From: Glenn Gernert [GGernert@mailbag.com]

Sent: Friday, January 04, 2008 7:34 AM

To: Sen.Coggs

Subject: Assembly Bill 258

Senator Coggs:

I believe in Assembly Bill 258 and encourage you to to schedule a hearing and committee vote.

glg

Glenn Gernert

955 Azure Court N. Oregon, WI 53575 **2** 608-835-9875 (phone)

昌 270-682-9875 (fax)

☐ ggernert@mailbag.com



From: mholt@dwave.net

Sent: Saturday, January 05, 2008 7:27 AM

To: Sen.Coggs Subject: Assembly Bill 258

Senator Coggs, I would like you to know that I am in support of Assembly Bill 258. For a number of years, I have been commuting to work on my bicycle, 4 miles one way. The physical and mental health benefits are great! I would like to see more employers use a "preventative" approach to the expense of health care rather than a reactive one. It seems as though many still have the attitude of apathy or disregard to employees who do exercise regularly.

I encourage the passage of this bill.

Thank you, Maggie Holt 828 McIntosh St. Wausau, WI 54403



From:

Darren Blankenship [joandarren@yahoo.com]

Sent:

Saturday, January 12, 2008 5:57 PM

To: Subject: Sen.Coggs ABR 258

Senator Spencer Coggs:

We encourage you to hold a hearing and committee vote on ABR 258. We think it makes sense for employers to be able to reward employees, who live a healthy lifestyle, with possible reduced health, life and disability insurance costs.

Thank you.

Joan and Darren Blankenship 5511 McGann Ln - Unit 209 Fitchburg WI 53711 joandarren@yahoo.com (608) 274-1173





Wisconsin State AFL-CIO ...the voice for working families.

David Newby, President • Sara J. Rogers, Exec. Vice President • Phillip L. Neuenfeldt, Secretary-Treasurer

FAX TRANSMISSION COVER SHEET

	Fax #:
TO:	Sen. Spencer Coggs Attn: Adam
FROM:	Joanne Ricca
DATE:	February 22, 2008
COMMENT	of had requested background on
0	his fax includes an opinion from Ir legal counsel.
- <u> </u>	
	Number of pages INCLUDING cover sheet: . 3

PLEASE NOTIFY THIS OFFICE IF THIS TRANSMISSION IS NOT LEGIBLE OR INCOMPLETE.

opeiu#9,afl-cio

The Law Offices Of

Previant, Goldberg, Uelmen, Gratz, Miller & Brueggeman,s.c.

Writer's Direct Number (414) 223-0432

February 14, 2008

VIA FACSIMILE AND U.S. MAIL Mr. Phil Neuenfeldt Wisconsin AFL-CIO 6333 W. Bluemound Road Milwaukee, WI 53213

Ms. Joanne Ricca Wisconsin AFL-CIO 6333 W. Bluemound Road Milwaukee, WI 53213

Re: Assembly Bill 258

Dear Phil and Joanne:

Currently, §111.35 prohibits discrimination on the basis of the use or non-use of lawful projects.

Subsection (3) (a) provides that it is not discrimination for an employer to offer health or other insurance benefits where the price of coverage varies depending upon the individual uses a lawful product if:

- 1. The difference between the premium rates charged to an individual who uses that lawful product and the premiums charged to an individual who does not use that lawful product reflects the cost of providing the coverage to the individual who uses that lawful product.
- 2. The employer . . . that offers the coverage provides each individual who is charged a different premium rate based on the individual's use of a lawful product off the employer's premises during nonworking hours with a written statement specifying the premium rate differential used by the insurance carrier.

1555 North RiverCenter Drive, Suite 202 P.O. Box 12993 Milwaukee, WI 53212 Fax 414.271.6308 Telephone 414.271.4500

Toll Free 800.841.5232



February 14, 2008

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Thus, an employer may provide different health insurance premiums to individual employees based upon use of lawful products provided that the employer can show that there actually is a cost differential.

Assembly Bill 258 removes its requirement of showing that there was a true cost differential for any financial incentive other than a premium. Of course, this would be back door way of charging higher premiums for employees who use a lawful product even if the employer cannot show a cost differential for the health insurance product. While most commonly, we think of smoking as a lawful product, where it is likely that an employer can show a cost differential, this Bill is not so limited. Suppose, for example, an employer decided it was going to offer a monthly financial incentive of \$50 or \$100 to those employees who don't eat meat, or an employer wanted to encourage or discourage the use of dairy products among its employees by giving the employees a monthly stipend if they used or did not use dairy products. Assembly Bill 258 would not prevent this.

Thus, the requirement that a differential be based upon the actual cost to the employer would be eliminated and this statute would be made meaningless.

Obviously, the preferable approach is to promote healthy lifestyles as part of an overall health care plan such as Healthy Wisconsin.

If you have any further questions, please feel free to contact me.

Very truly yours,

PREVIANT, GOLDBERG, UELMEN, GRATZ, MILLER & BRUEGGEMAN, s.c.

ΒY

Matthew R. Robbins mrr@previant.com

jts

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